



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

CRS
Docket No: 4051-00
29 November 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 30 June 1971 at age 19. Prior to the offense for which you received the punitive discharge, you received nonjudicial punishment and were convicted by a special court-martial. The offenses included absence from your appointed place of duty and failure to obey a lawful order on two occasions.

A second special court-martial convened on 25 April 1974 and found you guilty of an unauthorized absence of 189 days. The court sentenced you to confinement at hard labor for three months, forfeitures of \$200 per month for three months, a reduction in rate, and a bad conduct discharge. You received the bad conduct discharge on 7 January 1975.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that your misconduct began after the commanding officer of your ship did not stop a Russian ship from entering a port in North Vietnam, which led to your protesting

such a cowardly act. However, the Board concluded that no change to the discharge is warranted given the lengthy period of absence of which you were convicted by court-martial, and your prior misconduct. In this regard, the Board noted that you submitted no evidence to support your contention, and the record contains no such evidence.

Concerning your request to correct a computer error that shows that you are dead, the Board has no knowledge of such an error, nor did you provide any evidence from the computer.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director